

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BHUPEN PATEL and)
NAYAN PATEL d/b/a S.K.)
ENTERPRISES – JACKSON)
MOTEL,)
Plaintiffs,)
v.) Case No. _____
NAUTILUS INSURANCE COMPANY,)
Defendant.)

**NOTICE OF REMOVAL FROM CHANCERY COURT FOR RUTHERFORD COUNTY,
TENNESSEE**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Nautilus Insurance Company (hereinafter “Nautilus”), respectfully submits this Notice of Removal, and states as follows in support thereof:

A. The State Court Action

On April 10, 2013, the Plaintiffs, Bhupen Patel and Nayan Patel d/b/a S.K. Enterprises – Jackson Motel (the “Plaintiffs”), filed a Complaint for Declaratory Judgment (the “Complaint”) against Nautilus (the “Defendant”), in the Chancery Court for Rutherford County, Tennessee, styled *Bhupen Patel and Nayan Patel d/b/a S.K. Enterprises – Jackson Motel v. Nautilus Insurance Company*, Docket No. 13CV-494. The Tennessee Department of Commerce and Insurance was provided with the Complaint on April 15, 2013 and Nautilus was served with the Complaint on or about April 24, 2013. A copy of all the process, pleadings and orders which have been filed in this action are attached hereto as Collective Exhibit A. Nautilus has not yet filed an Answer or otherwise responded to the Complaint.

B. Timeliness of Removal

This removal is timely. This removal is being filed within thirty (30) days of Nautilus' receipt of the Complaint and is therefore timely under 28 U.S.C. § 1446(b).

C. Diversity Jurisdiction

This action is within the original jurisdiction of the District Court pursuant to 28 U.S.C. § 1332. Section 1332 provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” 28 U.S.C. § 1332(a)(1). This action satisfies both statutory requirements.

1. The Amount in Controversy Exceeds \$75,000

In the Complaint, the Plaintiffs seek monetary damages not to exceed Two Hundred Thousand and 00/100 Dollars (\$200,000.00). (*See Collective Exhibit A*, Complaint, Prayer for Relief ¶ B).

2. There is Diversity of Citizenship between the Plaintiffs and the Defendant

There is complete diversity between the parties:

- a. Plaintiffs, upon information and belief, are residents of Murfreesboro, Rutherford County, Tennessee.
- b. S.K. Enterprises, upon information and belief, is a Tennessee partnership, which operates a hotel known as Jackson Motel in Murfreesboro, Rutherford County, Tennessee.
- c. Nautilus is a corporation duly organized and existing under the laws of a state other than Tennessee with its principal place of business located in Arizona.

As a result of the foregoing, there is complete diversity between the Plaintiffs and Defendant. As a result, there is diversity of citizenship in this matter for purposes of 28 U.S.C. § 1332.

D. Nature of Claim: Alleged Breach of Contract

Plaintiffs generally allege a breach of contract against Nautilus. (See **Collective Exhibit A**, Complaint, Count 2 ¶¶ 19-22). Plaintiffs challenge the appraisal process and seek to hold Nautilus liable for breach of contract on the basis that it failed and refused to fully and promptly pay the amounts owed to Plaintiffs as a result of property damage to Jackson Motel caused by wind and hail.

E. Notice to State Court and Plaintiff

Contemporaneous with the filing of this Notice, Nautilus has provided written notice to the Plaintiffs and has filed a notice of this removal with the Chancery Court for Rutherford County, Tennessee.

F. Conclusion

Wherefore, this action should proceed in the United States District Court for the Middle District of Tennessee, as an action properly removed thereto.

Respectfully submitted,

/s/William S. Walton

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Attorneys for Nautilus Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded, via first class, U.S. Mail, on this 15th day of May, 2013, to the following:

J. Brandon McWherter, Esq.
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101 N. Highland
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